
STATUTORY INSTRUMENTS

2019 No. 450

The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019

[^{F1}PART 12

Transitional provisions

[^{F1}CHAPTER 4

Transition review

F1 Pt. 12 substituted (23.7.2019) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1076\)](#), regs. 1, **10**

General

Transition review of EU trade remedies measure

97.—(1) The TRA must review every EU trade remedies measure specified in a determination notice.

(2) The TRA may conduct a transition review—

- (a) before replacement of EU trade duty, in which case the review is of an EU trade remedies measure; or
- (b) after replacement of EU trade duty, in which case the review is of a UK trade remedies measure.

Continuation of transition review

97A.—(1) This regulation applies if—

- (a) the TRA is conducting a transition review under regulation 97(2)(a); and
- (b) the relevant EU trade remedies measure is transitioned as a UK trade remedies measure.

(2) The TRA must continue the transition review as a review of a UK trade remedies measure being conducted under regulation 97(2)(b).

Termination of transition review

97B.—(1) This regulation applies if—

- (a) a transition review is being conducted under regulation 97(2)(a); and
- (b) the Secretary of State has published a notice withdrawing the relevant determination notice.

(2) The TRA must by publishing a notice terminate that transition review.

(3) A notice under paragraph (2) must contain the information set out in paragraph 2 of Schedule 3.

Continuation of expired UK trade remedies measure

97C.—^{F2}(1) This regulation applies if a UK trade remedies measure would otherwise expire during—

- (a) a transition review being conducted under regulation 97(2)(b);
- (b) the period during which the Secretary of State is to decide in relation to a transition review under the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022.]

(2) The UK trade remedies measure continues to apply until the day the Secretary of State has published a notice in accordance with [^{F3}“regulation 101A(2) or 101C(2)(a) or in accordance with regulation 15(1)(b) of the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022] .

F2 [Reg. 97C\(1\) substituted \(2.3.2022\) by The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\), regs. 1\(1\), 19\(2\)\(a\)](#)

F3 [Words in reg. 97C\(2\) substituted \(2.3.2022\) by The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\), regs. 1\(1\), 19\(2\)\(b\)](#)

Initiation

Initiation of transition review

98.—(1) The TRA must publish a notice to initiate a transition review before the expiry of—

- (a) the relevant EU trade remedies measure, if the review is conducted under regulation 97(2)(a); or
- (b) the relevant UK trade remedies measure, if the review is conducted under regulation 97(2)(b).

(2) A notice under paragraph (1) must—

- (a) specify—
 - (i) the relevant EU trade remedies measure, if the review is conducted under regulation 97(2)(a); or
 - (ii) the relevant UK trade remedies measure, if the review is conducted under regulation 97(2)(b);
- (b) contain the information set out in sub-paragraphs (c), (d), (f), (g), and (k) to (o) of paragraph (1) of Schedule 3.

(3) The TRA may satisfy a requirement of paragraph (2) by reference to a document on an Internet site that is available to the public and free of charge.

Notification of transition review

98A.—(1) The TRA must notify the parties of a transition review—

- (a) before and after initiating the transition review, if the review relates to a countervailing amount;

- (b) after initiating the transition review, if the review relates to an anti-dumping amount.
- (2) In this regulation, “the parties” means—
 - (a) the government of the exporting country or territory;
 - (b) the Secretary of State.

Conduct

Conduct of transition review

- 99A.**—^{F4}(1) In a transition review, the TRA must consider whether—
- (a) the dumping of the goods or the importation of the subsidised goods subject to review would be likely to continue or recur if the anti-dumping amount or countervailing amount were no longer applied to those goods; and
 - (b) injury to a UK industry in the goods would be likely to continue or recur if the anti-dumping or countervailing amount were no longer applied to those goods.]
- (2) The TRA may also—
- (a) consider—
 - (i) whether it is appropriate to recalculate the anti-dumping amount or the countervailing amount;
 - (ii) whether the goods or the description of the goods to which the anti-dumping amount or the countervailing amount applies should be varied;
 - (iii) any of the matters of a review conducted under Chapter 2 of Part 7;
 - (b) reassess—
 - (i) the margin of dumping or the amount of the subsidy;
 - (ii) in accordance with Part 5, the anti-dumping amount or the countervailing amount adequate to remove the injury to a UK industry in the relevant goods caused by the dumped goods or the subsidised imports.
- (3) For the purposes of conducting a transition review under regulation 97(2)(a)—
- (a) an EU anti-dumping duty is to be treated as an anti-dumping amount;
 - (b) an EU countervailing duty is to be treated as a countervailing amount.

F4 Reg. 99A(1) substituted (3.5.2022) by [The Trade Remedies \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/414\)](#), regs. 1, **3(5)**

Modifications etc. (not altering text)

C1 Reg. 99A modified (2.3.2022) by [The Trade Remedies \(Review and Reconsideration of Transitioned Trade Remedies\) Regulations 2022 \(S.I. 2022/113\)](#), regs. 1(1), **7(3)(a)** (with reg. 3)

Determination of export price

99B.—(1) This regulation applies if the TRA constructs an export price for the purposes of a transition review in accordance with regulation 15.

(2) The TRA may deduct any anti-dumping amount paid if it is not reflected in resale prices and subsequent selling prices in the United Kingdom.

Modifications etc. (not altering text)

- C2** Reg. 99B modified (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113), regs. 1(1), **7(3)(a)** (with reg. 3)

Relationship with other Parts

99C. The TRA may apply Parts 2, 3, 4, and 6 to the extent the TRA considers relevant for the purposes of a transition review.

Modifications etc. (not altering text)

- C3** Reg. 99C modified (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113), regs. 1(1), **7(3)(a)** (with reg. 3)

Recommendation

Recommendation following transition review

100.—(1) The TRA must make a recommendation to the Secretary of State following a transition review to vary or revoke the application of the anti-dumping amount or the countervailing amount to the relevant goods.

(2) A recommendation under paragraph (1) must—

(a) be made in accordance with—

- (i) regulation 100A, if the recommendation is variation;
- (ii) regulation 100B, if the recommendation is revocation;

(b) include—

- (i) a description of the goods to which the recommendation relates;
- (ii) the names of overseas exporters or, where impracticable, the exporting countries or territories;
- (iii) a summary of the review;
- (iv) the reasons for the recommendation.

(3) The TRA must make a recommendation of revocation if the TRA is not satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test.

Recommendation of variation

100A.—(1) This regulation applies if the TRA is making a recommendation under regulation 100(1) to vary the application of the anti-dumping amount or the countervailing amount applicable to the relevant goods.

(2) The TRA must—

- (a) be satisfied that the application of an anti-dumping amount or a countervailing amount meets the economic interest test;
- (b) have had regard to the current and prospective impact of the anti-dumping amount or the countervailing amount;
- (c) specify the information set out in regulation 96A(2)(c).

- (3) The TRA must not make a recommendation comprising or including—
- (a) an anti-dumping amount that exceeds the margin of dumping;
 - (b) a countervailing amount that exceeds the amount of subsidy;
 - (c) an anti-dumping amount or a countervailing amount that is more than an amount the TRA is satisfied would be adequate to prevent or remove injury to the UK industry caused by the dumped or subsidised goods;
 - (d) a period for which the anti-dumping amount or the countervailing amount is to apply that extends more than five years after the appropriate date.
- (4) The TRA may recommend—
- (a) a different anti-dumping amount or a different countervailing amount to apply in respect of some of the relevant goods;
 - (b) maintaining the anti-dumping amount or the countervailing amount if it has not been possible for the TRA to recalculate that amount.

Recommendation of revocation

100B.—(1) This regulation applies if the TRA is making a recommendation under regulation 100(1) to revoke the application of the anti-dumping amount or the countervailing amount applicable to the relevant goods.

(2) The TRA must recommend the appropriate date as the date the anti-dumping amount or the countervailing amount is revoked.

Decision

Decision on recommendation following transition review

101.—(1) [^{F5}Subject to paragraph (3),] the Secretary of State must accept a recommendation made under regulation 100(1) unless the Secretary of State is satisfied that it is not in the public interest to accept that recommendation.

(2) In considering whether a recommendation of variation is not in the public interest, the Secretary of State must accept the relevant TRA determination that the economic interest test is met unless the Secretary of State is satisfied that that determination is not a determination that the TRA could reasonably have made.

[^{F6}(3) Paragraph (1) does not apply where, as mentioned in regulation 3(b) of the Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022, the Secretary of State notifies the TRA in writing that, in respect of the goods to which the recommendation relates, the Secretary of State will decide whether to vary, maintain or revoke an anti-dumping amount or countervailing amount applicable to those goods.]

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| F5 | Words in reg. 101(1) inserted (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113) , regs. 1(1), 19(3)(a) |
| F6 | Reg. 101(3) inserted (2.3.2022) by The Trade Remedies (Review and Reconsideration of Transitioned Trade Remedies) Regulations 2022 (S.I. 2022/113) , regs. 1(1), 19(3)(b) |

Rejection of recommendation

101A.—(1) This regulation applies if the Secretary of State rejects [^{F7}under regulation 101(1) a recommendation].

- (2) The Secretary of State must—
- (a) publish a notice containing—
 - (i) a description of the goods to which the notice relates;
 - (ii) a summary of the review;
 - (iii) the recommendation made under regulation 100(1);
 - (iv) the reasons for rejecting the recommendation;
 - (b) notify interested parties;
 - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

F7 Words in [reg. 101A\(1\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **28**

Acceptance of recommendation before replacement of EU trade duty

101B.—(1) This regulation applies if the Secretary of State accepts [^{F8}under regulation 101(1) a recommendation] before replacement of EU trade duty.

- (2) The Secretary of State must publish a notice containing—
- (a) in relation to a recommendation of variation—
 - (i) the information set out in regulation [^{F9}101A(2)(a)(i) to (iii)];
 - (ii) a statement that the EU trade remedies measure will be transitioned on replacement of EU trade duty;
 - (b) in relation to a recommendation of revocation—
 - (i) the information set out in regulation [^{F10}101A(2)(a)(i) to (iii)];
 - (ii) a statement that the EU trade remedies measure will not be transitioned on replacement of EU trade duty.

F8 Words in [reg. 101B\(1\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **29(a)**

F9 Words in [reg. 101B\(2\)\(a\)\(i\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **29(b)**

F10 Words in [reg. 101B\(2\)\(b\)\(i\)](#) substituted (1.3.2020) by [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **29(b)**

Acceptance of recommendation after replacement of EU trade duty

101C.—(1) This regulation applies if the Secretary of State accepts [^{F11}under regulation 101(1) a recommendation] after replacement of EU trade duty.

- (2) The Secretary of State must—
- (a) make provision by public notice giving effect to that recommendation;
 - (b) notify interested parties.
- (3) A notice made under paragraph (2)(a) must—
- (a) contain the information set out in regulation [^{F12}101A(2)(a)(i) to (iii)];
 - (b) specify —

- (i) the anti-dumping amount or the countervailing amount;
- (ii) the goods or the description of the goods to which the anti-dumping amount or the countervailing amount applies;
- (iii) the period beginning on the appropriate date for which the anti-dumping amount or the countervailing amount is to apply to those goods.]

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| <p>F11 Words in reg. 101C(1) substituted (1.3.2020) by virtue of The Trade Remedies (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/99), regs. 1, 30(a)</p> <p>F12 Words in reg. 101C(3)(a) substituted (1.3.2020) by The Trade Remedies (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/99), regs. 1, 30(b)</p> |
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Changes to legislation:

There are currently no known outstanding effects for the The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, CHAPTER 4.